93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 93-752

ANADROMOUS FISH CONSERVATION ACT

JANUARY 21, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

MRS. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 11295]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 11295) to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out such Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the legislation is to extend and expand the program for the conservation, development, and enhancement of our Nation's anadromous fish and the fish in the Great Lakes that ascend streams to spawn.

In achieving this purpose, H.R. 6396 would amend the Anadromous Fish Conservation Act to extend the program for an additional five (5) years, until June 30, 1979. There would be authorized to be appropriated not to exceed $10 million for each of the five fiscal years. Coverage of the Act would be broadened to authorize the carrying out of a program with the States to provide for the control of the sea lamprey.

LEGISLATIVE BACKGROUND

H.R. 6396 was introduced on March 29, 1973, by Mrs. Sullivan, Mr. Dingell, Mr. Mailliard and Mr. Pritchard. An identical bill, H.R.

99-006

6965, was introduced on April 12, 1973, by Mrs. Sullivan, Mr. Breaux and Mr. Young of Alaska. On November 6, 1973, H.R. 11295—a bill identical to H.R. 6396 as reported by the Subcommittee on Fisheries and Wildlife Conservation and the Environment—was introduced by Mrs. Sullivan, Mr. Grover, Mr. Dingell, Mr. Mailliard, Mr. Pritchard, Mr. Jones of North Carolina, Mr. Goodling, Mr. Biaggi, Mr. Steele, Mr. Anderson of California, Mr. Forsythe, Mr. Kyros, Mr. Cohen, Mr. Studds, Mr. Treen and Mr. Bowen.

Briefly explained, H.R. 6396 as introduced would amend the Anadromous Fish Conservation Act to extend the program for an additional four (4) years, until June 30, 1978, at the current level of funds authorized to be appropriated, $10 million per year. The legislation also would make it mandatory that a program be carried out, and that any funds appropriated under the Act would be required to be expended.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearings on the legislation on September 17, 1973.

The Departments of the Interior and Commerce filed favorable reports on the legislation but recommended the enactment of a draft bill in lieu of H.R. 6396. The draft bill would have the effect of extending the program for an additional five years (instead of four as called for by H.R. 6396), at the same level of funding ($10 million per year), and broadening the Act to allow for the control of the sea lamprey. In addition, the draft bill would eliminate from the provisions of H.R. 6396 all references to mandatory spending of appropriated funds under the Act.

All witnesses testifying at the hearings were unanimous in their support for the extension of the Act. Several of the witnesses suggested changes to the legislation such as (1) to increase the Federal participation in the program from a 50–50 matching fund basis to a 75 (Fed.)–25 (State) matching fund basis; and (2) to increase the Federal funding under the Act from $10 million to $20 million per year.

After giving careful consideration to the evidence presented at the hearings and the departmental reports on October 31, 1973, the Subcommittee ordered reported to the full Committee H.R. 6396, with amendments. This was accomplished by striking out all after the enacting clause and substituting new language. The title of the bill was also amended as reported by the Subcommittee. H.R. 6396 is in essence the draft bill suggested for adoption by the Departments of the Interior and Commerce.

On January 22, 1974, your Committee unanimously ordered reported to the House by voice vote H.R. 11295, a clean bill, which is identical to the bill ordered reported by the Subcommittee, H.R. 6396, with amendments.

Background and Need for the Legislation

Anadromous fish begin their life in fresh water, where they live for varying periods, then migrate to salt water where they usually spend most of their lives and finally return to fresh water (usually to stream of their birth) at maturity to spawn, after which many die, having completed their lifespan. During their ocean life, anadromous fish migrate through territorial and international waters, and as a result, their management requires cooperation between the States and foreign countries, as well as between the various States within the United States. There are many fish in the Great Lakes very similar to anadromous fish in habits and life histories. However, they are not considered anadromous fish because they do not migrate to salt water. Some of the anadromous fish species and certain fishes of the Great Lakes which provide our Nation with sustenance and great recreation are the Atlantic salmon, five species of Pacific salmon, shad, striped bass, steelhead, sea-run cutthroat trout, Arctic char, sheefish, and the Dolly Varden trout.

Since colonial times, many dams have been built which do not have any provision for passage of fish. Similarly, many dams have been built with fish passages, however, a considerable number of them have proven to be inadequate. It is apparent from the testimony at the hearings on the legislation that if mature adult anadromous fish and the similar Great Lakes fish cannot, for one reason or another, ascend the fresh water streams to spawn, there will be no production of young, and in a few years, entire runs could be eliminated. Even a delay of 1 to 3 weeks in reaching the spawning area could be disastrous.

Anadromous fish require healthy waters—in addition to unobstructed waters—for spawning and rearing of the young and an abundance of food when they leave the streams for growth to maturity in the larger bodies of water. This the States realized and within their limited means, made sincere efforts to discharge their obligations in this regard. The Congress recognized their inadequacies and in 1965 enacted the Anadromous Fish Conservation Act. This act places the Federal Government in harness with the States and other non-Federal interests in a coordinated effort to improve the anadromous and similar Great Lakes fishery resources of our Nation.

The combined Federal-State effort has met with enthusiastic response from 29 of the 31 eligible States, and other non-Federal interests. Following is a tabulation submitted by the Department of the Interior which indicates the distribution of the anadromous fish conservation program funds for fiscal years 1967–74 (thousands of dollars) :

DISTRIBUTION OF ANADROMOUS FISH CONSERVATION PROGRAMS FUND, FISCAL YEAR 1967–74

[In thousands of dollars]

State	Fiscal year—					Total
	1967–70	1971	1972	1973	1974	
Alabama	$72.5	$47.5	$60.7	$53.9	$69.4	$304.0
Alaska	1,859.5	477.8	424.5	502.2	481.7	3,745.7
California	2,155.2	677.0	565.0	482.2	365.0	4,244.4
Connecticut	124.4	46.7	47.7	49.1	58.2	326.1
Delaware	207.5	72.2	39.2	25.8	26.3	371.0
Florida	77.5	32.5	40.7	25.2	21.0	169.9
Georgia	114.4	10.0	18.0	42.0	48.7	233.1
Hawaii	0	0	0	0	0	0
Illinois	11.0	0	4.5	0	0	15.5
Indiana	10.0	0	210.0	90.0	50.0	360.0
Louisiana	78.0	27.5	25.0	39.8	30.0	200.3
Maine	747.9	81.0	135.8	169.8	96.0	1,230.5
Maryland	290.2	87.0	66.8	85.1	63.1	592.2
Massachusetts	125.1	61.7	46.1	64.2	112.2	409.3
Michigan	2,255.0	250.0	285.0	270.0	285.0	3,345.0
Minnesota	107.4	25.7	40.0	50.0	40.0	263.1
Mississippi	123.0	35.0	35.0	35.0	35.0	263.0
New Hampshire	118.8	73.3	68.8	495.9	91.9	848.7
New Jersey	80.1	42.3	35.9	35.1	47.5	240.9
New York	195.0	103.7	137.2	93.9	175.5	705.3
North Carolina	179.0	42.4	50.0	90.0	110.0	471.4
Ohio	93.0	17.5	15.0	0	0	125.5
Oregon	2,161.3	565.0	540.6	601.7	462.3	4,330.9
Pennsylvania	99.5	63.8	53.2	47.7	56.9	321.1
Rhode Island	125.5	25.4	45.0	25.0	46.2	266.1
South Carolina	89.2	115.0	113.0	43.0	45.5	405.7
Texas	0	0	0	0	0	0
Vermont	12.8	11.6	12.8	8.9	16.6	62.7
Virginia	530.5	130.0	173.5	170.0	90.0	1,094.0
Washington	2,268.8	563.4	595.7	538.5	460.0	4,426.4
Wisconsin	462.7	420.0	220.3	321.0	221.0	1,645.0
General fund	199.7	0	0	0	0	199.7
Totals	14,973.5	4,105.0	4,105.0	4,455.0	3,605.0	31,243.5

Since its inception, $16,389,000 in Federal funds has been invested in the anadromous fish program. Your Committee was greatly impressed with a tabulation submitted by the Department of the Interior showing the benefits of the program in relation to funds invested. In deriving the value of the benefits consideration was given basically to three elements—(1) the dockside value of commercial fish, (2) the value of a day of sport fishing as determined by survey, and (3) an estimate of economic benefits to the area involved as a result of sport fishing expenditures. Inasmuch as the Federal dollar is matched with State funds, the return from Federal dollars invested is approximately double the amount which would be derived as an outright Federal expenditure.

Following is a table prepared by the Department of the Interior which indicates that each million dollars of Federal funds expended under this program generates approximately $9 million of benefits to the States:

ESTIMATED RETURNS FROM STATE AND FEDERAL DOLLARS INVESTED UNDER THE ANADROMOUS FISH ACT (PUBLIC LAW 89-304 AS AMENDED) FISCAL YEAR 1967-74, INCLUSIVE

Area and species	States	Number of projects	Investment, State and Federal	Returns
PACIFIC COAST AND ALASKA				
Pacific salmon, steelhead trout, and other salmonids.	Alaska, California, Oregon, and Washington	152	$33,534,020	$124,075,874
American shad and striped bass	Oregon and California	4	216,200	431,400
Subtotal		156	33,750,220	124,507,274
GREAT LAKES				
Coho and chinook salmon	Illinois, Indiana, Michigan, Wisconsin, New York, and Pennsylvania.	10	8,500,300	100,303,540
Atlantic salmon	Michigan and Wisconsin	2	130,000	780,000
Trout	Indiana, Michigan, Minnesota, Wisconsin, and New York.	10	3,063,200	22,667,680
Walleye	Ohio and Wisconsin	3	216,000	864,000
Alewife	Illinois and Wisconsin	5	205,522	616,566
American smelt	Wisconsin	2	83,400	250,200
General	Illinois, Michigan, Wisconsin, Minnesota, and New York.	11	1,139,160	4,211,640
Subtotal		43	13,337,582	129,693,626
ATLANTIC COAST				
Atlantic salmon	Maine, New Hampshire, Massachusetts, Vermont, and Connecticut.	10	1,754,200	10,344,000
American shad	Connecticut, Delaware, Florida, Georgia, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	29	3,393,028	12,081,534
Coho	New Hampshire and Connecticut	4	1,132,800	6,097,800
River herring	Massachusetts, New Hampshire, Rhode Island, Connecticut, Virginia, and Vermont.	13	3,161,010	7,780,506
Striped bass		30	3,093,526	9,280,578
American smelt	Maine	1	52,000	156,000
Trout	Connecticut	1	60,600	454,500
Sturgeon	New York and South Carolina	2	90,000	180,000
General	Maine, New York, and Maryland	16	1,262,034	3,502,868
Subtotal		106	13,999,198	49,877,786
GULF OF MEXICO				
Alabama shad	Florida	2	194,800	389,600
Striped bass	Alabama, Louisiana, and Mississippi	14	1,620,930	3,707,660
Subtotal		16	1,815,730	4,097,260
Project investment			62,902,730	
Federal administration			3,055,085	
Total		321	65,957,815	308,175,946

As previously explained in the legislative background of this report, H.R. 6396 was amended by the Committee to broaden the coverage of the Anadromous Fish Conservation Act to allow for the control of the sea lamprey. Following is a portion of the statement made by the Department of the Interior witness at the Subcommittee hearings which best explains the need to control the sea lamprey:

> * * * During the period since 1965 there has also been increased concern over the use of toxic chemicals to correct environment problems. In 1971, there was an apparent increase in scarring due to lampreys. The lamprey life cycle is more variable than originally thought and it has now become clear that there is no short term solution to lamprey control.
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> The Great Lakes Fishery Commission has concentrated on the treatment and retreatment of streams in Lakes Superior and Michigan. In addition, a program for treatment of Lake Huron streams has been underway for a number of years, while for Lake Ontario treatment of Canadian streams was underway in 1971 and United States streams in 1972. United States and Canadian streams have been retreated this year. Since the priorities of Commission and the States may vary, several States have expressed a desire to be able to use funds made available by the Anadromous Fish Conservation Act to supplement the lamprey control program through the construction of barriers and/or other control measures. For these reasons, our proposal would amend the Act specifically to include provision for sea lamprey control.
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> In 1956, when the Great Lakes Fishery Act (16 U.S.C. 931) was enacted, the Departments of State and Interior stressed the urgency of enactment so that lamprey control would be continued on an expanded and coordinated basis under an International Commission. It was estimated at that time that lamprey control in the upper lakes (Superior, Michigan, Huron) would require 10 years using electric weirs, or if selective chemicals could be used, then half that time, or five years, would be required.
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> In 1965, when the Anadromous Fish Conservation Act was enacted, such a chemical treatment had been perfected, and while it was apparent the original goal regarding lamprey control had been unduly optimistic, it was still believed possible to achieve control of the lamprey in a reasonable length of time. However, the legislative history of the Anadromous Fish Conservation Act indicates that funds available pursuant to it were not intended to be expended for construction of sea lamprey control barriers. * * *

Since the Anadromous Fish Conservation Act became law in 1965, the Federal Government, in cooperation with the States, has carried out a nationwide program for the benefit of anadromous and Great Lakes fish. Prior to the time Reorganization Plan No. 4 of 1970 went into effect, the program was administered by two Bureaus within the Department of the Interior, the Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries. Since the Reorganization Plan went into effect, functions formerly carried out by the Bu-

reau of Commercial Fisheries have been vested in the Secretary of Commerce and are now carried out by the National Marine Fisheries Service within that Department. Consequently, the Federal Government's activities under the Act are carried out by both the Department of the Interior and the Department of Commerce with each Department receiving direct appropriations (under the appropriation-authorization provision of the Anadromous Fish Conservation Act) to finance its program under the Act. The extension of the program as provided by the legislation would permit the joint administration of the Act to continue. It should also be noted that authorities of the Department of Health, Education, and Welfare relating to water pollution control (section 6 of the Act) were transferred to the Environmental Protection Agency under Reorganization Plan No. 3 of 1970.

Your committee was impressed with the accomplishments under the act during the relatively short period the program has been underway. Through research, significant progress has been made in the development and improvement of techniques for fish disease detection and control, and in the development of a better diet for young salmon. Development of accurate forecasts of life and timing of salmon runs provides industry with leadtime for adjusting plant operations and provides the States with precise information needed for instituting effective conservation regulations.

A few of the many worthwhile projects carried out by the Department of the Interior, which have been completed or are currently in progress, for enhancement of anadromous fish are described below:

1. Six new hatcheries have been constructed or are in progress, and nine major additions or modifications of hatcheries have been completed or are in progress. Increased production of juvenile anadromous fish is estimated at 835,000 pounds annually.

2. Four major fish screens installed at hydroelectric dams are saving an estimated 12,000,000 (300,000 pounds) juvenile salmon and steelhead. One of these, the Glenn Colusa in California is the world's largest revolving drum screen. Total cost was $2.6 million. Value of the fishery saved is estimated at $1 million annually.

3. Nine streamside rearing ponds constructed or improved are increasing production of juvenile anadromous fish by 1,600,000 fish annually (65,000 pounds).

4. Thirty-five new fishways were constructed and two were improved. These fishways have opened 530 miles of rivers and streams to spawning and sport fishing.

5. Three anadromous fish research laboratories and two spawn-taking buildings were constructed under the program.

6. Seventeen dams, weirs or traps were constructed for low flow augmentation, assessments or anadromous fish migrations and spawn-taking.

7. Four million juvenile anadromous fish (160,000 pounds) were reared under contract and stocked in addition to those fish produced by hatcheries and rearing ponds constructed under the program.

8. Other development work includes improvement of six streams for fish spawning and migration, reclamation of a 445-acre smelt rearing lake, operation and maintenance of fish producing facilities in four States, a fish viewing chamber and spawning channel for research.

9. Research under this program has produced a vaccine to immunize juvenile salmon against a salt water disease known as vibroisis.

10. Seven States have initiated planning or coordination projects. Two such projects are concerned with long-range comprehensive plans for anadromous fish.

Significant results have also been obtained by the Department of Commerce under its administration of the Act. Of the 188 projects carried out since the inception of the program, 148 projects, costing about $21 million, have been completed, and 40 are in various stages of completion at an estimated cost of $10 million. Fifty-one percent of the total State-Federal project fund is used for research in such projects as measuring the timing and size of fish returns, detection and control of fish diseases and parasites, aquaculture, and biology of life history and population dynamics. Forty-one perent of the money is used for the construction of fish hatcheries, screens, fishways, and other anadromous fish facilities. Five percent of the money is used for exploratory fishing, operation and maintenance of facilities constructed under the program, and the collection of statistics. The remaining three percent is spent on coordination and planning.

More specifically, some of the Department of Commerce accomplishments are as follows: three salmon hatcheries, constructed in California, Oregon and Washington, are annually producing more than 10 million young salmon and steelhead for release in Pacific Coast streams; two large spawning channels under construction at State-owned hatcheries in Washington will return about 100,000 coho and chinook salmon to the commercial and recreational fisheries annually; construction of two hatcheries—one to produce striped bass in Alabama—is underway; barriers to the upstream movement of alewife and American shad have been removed in several New England streams; and four fish screens have been installed in certain California rivers to protect young downstream migrant salmon and steelhead trout.

Conclusion

In the United States, the net effect of man's activities from earliest times has been to drastically reduce a former abundance of anadromous fish and similar fish in the Great Lakes to a point nearly beyond salvation. Unless measures are taken to prevent further substantial depletion and programs are instituted to effectively conserve and enhance these valuable resources certain species of fish may disappear from the face of the earth forever. These decreases in the resource have resulted primarily from damage to habitat through pollution, siltation, channelization, dewatering, land filling and flooding by reservoirs, and creation of formidable obstacles to migration through dam construction.

Although there have been tremendous accomplishments under the Anadromous Fish Conservation Act since its enactment in 1965, there

are still several species of anadromous fish that are on the rare and endangered species list and there are others in which much work needs to be done before these species can be restored to their former abundance.

Your committee feels that the need for continuation of this program becomes more apparent when the anticipated tremendous increase in sport and commercial fishing over the next several decades is considered. Anadromous fish and fish in the Great Lakes that ascend streams to spawn would contribute substantially to the satisfaction of this increased need. Also, your Committee believes that many important benefits to other species of fish would be derived from the continuation of this program. Therefore, your Committee is of the firm opinion that the Federal leadership and assistance provided under this program should be continued.

What the Bill Does: Section-by-Section Analysis

As indicated in the legislative background of this report, your Committee ordered reported to the House H.R. 11295, a clean bill, which is identical to the bill ordered reported by the Subcommittee, H.R. 6396, with amendments. There follows a section-by-section summary of H.R. 11295 accompanied by discussion where appropriate.

Section I

Under section I of present law, the Secretaries of the Interior and Commerce are authorized to enter into cooperative agreements with one or more States, acting jointly or severally, for the purpose of conserving, developing, and enhancing the anadromous fishery resources of the Nation and the fish in the Great Lakes that ascend streams to spawn. The agreements entered into are required to describe (1) actions to be taken by each; (2) the benefits expected to be derived; (3) the estimated cost; (4) the share of such costs to be borne by each; (5) the term of the agreement; (6) the terms and conditions for disposing of properties acquired by the Secretary during the term of the agreement; and (7) such other terms and conditions deemed desirable by the Secretary. The Federal share of the total cost of any project is limited to an amount not to exceed 50 percent of such costs, exclusive of any Federal land involved, with the remaining cost to be borne by the States and other non-Federal interests. However, whenever the Secretary enters into a cooperative agreement with two or more States, the Federal share is increased to 60 percent of such costs. The Secretary is also authorized to enter into cooperative agreements with the States for the operation and maintenance of any facilities and management and administration of any lands or interests therein acquired or facilities constructed pursuant to the Act.

Under section 2 of the Act, in accordance with the agreements entered into pursuant to section 1 of the Act, the Secretary is authorized to do such things as (1) conduct investigations, engineering and biological surveys; (2) carry out stream clearance activities; (3) construct, install, maintain and operate devices and structures for feeding and spawning purposes; (4) construct, operate, and maintain fish hatcheries; and (5) conduct such studies.

Section 1 of the bill would amend section 2 of the Act to add a new category to the actions that could be taken by the Secretary pursuant to a cooperative agreement. In this regard, the Secretary would be authorized to provide for the control of the sea lamprey.

As previously explained, when the Anadromous Fish Conservation Act came into being in 1965, the Great Lakes Fishery Commission had underway a program to control sea lamprey with electric weirs and selective chemical toxicants. It had been anticipated at that time that with the continued use of these methods, control of sea lampreys would be a reality within five to ten years. It has now been determined that the original goal was optimistic and that additional time and effort will be needed before lamprey control can be achieved.

In view of the expressed desire of a number of the Great Lakes States to use funds under the Anadromous Fish Conservation Act to assist in the control of the sea lamprey, your Committee in its wisdom deemed it advisable to broaden the coverage of the Act in order that a concerted effort may be made and the sea lamprey brought under control at the earliest date possible. However, your Committee would like to make it clear that it expects the Great Lakes Commission to continue its efforts in this program and that by permitting such a program to be carried out under that Act will in no way lessen the Commission's efforts to see that the sea lamprey is controlled as soon as possible.

Section 2

The Anadromous Fish Conservation Act had its inception in 1965 when $25 million was authorized to be expended over a five-year period, until June 30, 1970. In 1970, the program was extended for an additional four-year period, until June 30, 1974, at the following level of funding: $6 million for fiscal year 1971; $7.5 million for fiscal year 1972; $8.5 million for fiscal year 1973; and $10 million for fiscal year 1974.

As previously explained, H.R. 6396, as introduced, would extend the life of the program for an additional four years at a level of funding of $10 million per year. The Departments of the Interior and Commerce recommended that the program be extended at the same level of funding but for a period of five years. Your Committee deemed it in the best interest of the program to adopt the departmental recommendation and the bill ordered reported by your Committee, H.R. 11295, authorizes to be appropriated $10 million per year for a period of five years, until June 30, 1979.

Your Committee would like to point out that for the last several years of the program only about $4 million per year has been appropriated each year under the Act. Based on information supplied by the Departments, it appears that at this level of funding there are a number of State requested programs going unfunded. The total of these requests amounted to about $3 million per year for fiscal years 1973 and 1974. In view of the foregoing, your Committee would like to make it clear that it expects all State requests under this Act to be fully funded up to the level of funds authorized to be appropriated, in this case, $10 million per year. It is only in this way that the intent of your Committee can be carried out and the program a complete success.

Cost of the Legislation

In the event this legislation is enacted into law, the maximum cost to the Federal Government over the five-year extended life of the program would be $10 million per year.

Departmental Reports

H.R. 6396 (a similar bill to H.R. 11295) was the subject of two departmental reports. These reports follow herewith:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., September 14, 1973.

Hon. Leonor K. (Mrs. John B.) Sullivan,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

Dear Madam Chairman: Your Committee has requested the views of this Department on H.R. 6396, a bill "To amend the Anadromous Fish Conservation Act in order to clarify the duties of the Secretary of the Interior thereunder and to extend the authorization for appropriations to carry out such Act."

We recommend the enactment of H.R. 6396 if revised to incorporate an amendment in the nature of a substitute for all after the enacting clause.

H.R. 6396 would amend the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f) to reduce the Secretary of the Interior's discretion with respect to the administration of the program authorized thereunder and to extend the authorization for appropriations for this program through the fiscal year ending June 30, 1978. Moreover, H.R. 6396 would add language to this Act which would prohibit the withholding, delay or preclusion of the obligations or expenditure of any funds appropriated pursuant to such authorization.

During the seven years (1967–1973) since the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f) was enacted, the Department of the Interior, in cooperation with the States, has carried out a nationwide program for the benefit of anadromous and Great Lakes fish. Twenty-nine of the 31 eligible States have participated in the Department of the Interior's program which is administered by the Bureau of Sport Fisheries and Wildlife. To date, 74 projects have been completed under cooperative agreements between the Secretary of the Interior and the States, and 91 are ongoing.

Since Reorganization Plan No. 4 of 1970 went into effect, vesting in the Secretary of Commerce functions of the former Bureau of Commercial Fisheries of the Department of the Interior, the Federal Government's activities under this Act have been carried out by both the Department of the Interior and the Department of Commerce with each Department receiving direct appropriations to finance its programs under the Act. In addition, since the implementation of the President's Reorganization Plan No. 3 of 1970, the responsibilities under Section 6 of the Act which were vested in the Secretary of Health, Education, and Welfare have been carried out by the Administrator of the Environmental Protection Agency.

The principal species of anadromous fish benefiting from activities carried out under cooperative agreement are coho and chinook salmon, steelhead trout, sea-run cutthroat trout, striped bass (rock-fish) Atlantic salmon, three species of river herring (alewives, blueback herring and hickory shad), smelt, American shad, Alabama shad, sturgeon and sheefish. The work is accomplished by the States or their sub-contractors such as universities or research institutes. Depending on the terms of the cooperative agreement, the Federal share of the project cost does not exceed 50 or 60 percent. Only agreements involving two or more States are reimbursed at the 60 percent rate.

The value of the anadromous fish program lies principally in the number of additional fisherman days of recreation created as a result of work in four major categories: research, development, planning and coordination, and land acquisition. There is also value to the commercial fisheries, currently estimated at 300,000 fish (or about 3,000 pounds) annually. The relationship of Federal payments (Bureau of Sport Fisheries and Wildlife) to States to fisherman days and the resulting dollar benefits is displayed in the table that follows:

RELATIONSHIP OF PAYMENTS TO STATES (BSFW) TO FISHERMEN DAYS AND RESULTING DOLLAR BENEFITS—PROGRAM PAYMENTS TO STATES

Year	Federal funding	Fisherman days	At $6 per day
1967	$1,025,000	0	0
1968	2,250,000	500,000	$3,000,000
1969	2,105,000	1,300,000	7,800,000
1970	2,105,000	3,000,000	18,000,000
1971	2,105,000	3,800,000	22,800,000
1972	2,105,000	4,750,000	28,500,000
1973	2,105,000	[1] 5,500,000	[1] 33,000,000
1974	1,605,000	[1] 4,500,000	27,000,000
Total	15,405,000	23,350,000	140,100,000
Funds transferred [2]	994,000		
Total	16,399,000	23,350,000	140,100,000

[1] Estimated.
[2] Funds transferred from the Economic Development Administration, the Upper Great Lakes Regional Commission, and the Coastal Plains Regional Development Commission to supplement projects in Michigan, Minnesota, and South Carolina.

For more than 100 years prior to implementation of programs authorized by the Anadromous Fish Conservation Act, anadromous fish suffered losses to pollution, habitat destruction, over-fishing and obstacles to movement to and from vital freshwater spawning and nursery areas. In the Great Lakes, catastrophic losses in valuable fish populations reduced sport fishing to a very low level.

Work stimulated through the Federal cost sharing program made use of known fish culture and management methods. These, when applied to the sadly depleted Great Lakes anadromous fish population resulted in spectacular gains.

On either Coast and in Gulf waters, a combination of factors have yielded benefits. Through the cooperative program new areas have been opened by constructing fish passage facilities, juvenile losses to water diversion have been reduced by construction of fish screens, and in under-utilized habitat, increased numbers of anadromous fish have been stocked.

A few of the many worthwhile projects which have been completed or are currently in progress for enhancement of anadromous fish are described below:

1. Six new hatcheries have been constructed or are in progress, and nine major additions or modifications of hatcheries have been completed or are in progress. Increased production of juvenile anadromous fish is estimated at 835,000 pounds annually.

2. Four major fish screens installed at hydroelectric dams are saving an estimated 12,000,000 (300,000 pounds) juvenile salmon and steelhead. One of these, the Glenn-Colusa in California is the world's largest revolving drum screen. Total cost was $2.6 million. Value of the fishery saved is estimated at $1 million annually.

3. Nine streamside rearing ponds constructed or improved are increasing production of juvenile anadromous fish by 1,600,000 fish annually (65,000 pounds).

4. Thirty-five new fishways were constructed and two were improved. These fishways have opened 530 miles of rivers and streams to spawning and sport fishing.

5. Three anadromous fish research laboratories and two spawn-taking buildings were constructed under the program.

6. Seventeen dams, wiers or traps were constructed for low flow augmentation, assessment or anadromous fish migrations and spawn-taking.

7. Four million juvenile anadromous fish (160,000 pounds) were reared under contract and stocked in addition to those fish produced by hatcheries and rearing ponds constructed under the program.

8. Other development work includes improvement of six streams for fish spawning and migration, reclamation of a 445-acre smolt rearing lake, operation and maintenance of fish producing facilities in four States, a fish viewing chamber and spawning channel for research.

9. Research under this program has produced a vaccine to immunize juvenile salmon against a salt water disease known as vibroisis.

10. Seven States have initiated planning/or coordination projects. Two such projects are concerned with long-range comprehensive plans for anadromous fish.

In 1956, when the Great Lakes Fishery Act (16 U.S.C. 931) was enacted, the Departments of State and Interior stressed the urgency of enactment so that lamprey control would be continued on an expanded and coordinated basis under an International Commission. It was estimated at that time that lamprey control in the upper lakes (Superior, Michigan, Huron) would require 10 years using electric wiers, or if selective chemicals could be used, then half that time, or five years, would be required.

In 1965, when the Anadromous Fish Conservation Act was enacted, such a chemical treatment had been perfected, and while it was apparent the original goal regarding lamprey control had been unduly optimistic, it was still believed possible to achieve control of the lamprey in a reasonable length of time. However, the legislative history

of the Anadromous Fish Conservation Act indicates that funds available pursuant to it were not intended to be expended for construction of sea lamprey control barriers.

During the period since 1965 there has also been increased concern over the use of toxic chemicals to correct environment problems. In 1971, there was an apparent increase in scarring due to lampreys. The lamprey life cycle is more variable than originally thought and it has now become more clear that there is no short term solution to lamprey control.

The Great Lakes Fishery Commission has concentrated on the treatment and retreatment of streams in Lakes Superior and Michigan. In addition, a program for treatment of Lake Huron streams has been underway for a number of years, while for Lake Ontario treatment of Canadian streams was underway in 1971 and United States streams in 1972. United States and Canadian streams have been retreated this year. Since the priorities of Commission and the States may vary, several States have expressed a desire to be able to use funds made available by the Anadromous Fish Conservation Act to supplement the lamprey control program through the construction of barriers and/or other control measures. For these reasons, our proposal would amend the Act specifically to include provision for sea lamprey control.

The Act of October 30, 1965, authorized appropriations up to $25 million for the period ending June 30, 1970. A total of $16,389,000 was appropriated. The May 14, 1970, amendment to the Act authorized appropriations totaling $32 million, through June 30, 1974 ($6 million, 1971; $7.5 million, 1972; $8.5 million, 1973; and $10 million, 1974). Accordingly, our proposal would amend the Act to extend the program for an additional five years at its current authorization level beyond fiscal year 1974.

In our judgment, the amendments to the Anadromous Fish Conservation Act in sections (1) and (2) of H.R. 6396 would result in an unnecessary diminution of the discretion necessary to administer this program. The Anadromous Fish Conservation program is a continuing program in which the cooperation between the States and the Departments of Commerce and Interior has been excellent over the years. The mandatory language of these amendments, however, could result in the inability of the Secretary to require the States to meet the standards and criteria developed over the years for State participation in the program. Moreover, the language on lines 14 through 19 on page 2 of H.R. 6396 is unnecessary because the withholding of funds from obligation or expenditure has not been a problem since the first year of the program. In that year (Fiscal Year 1967), $3 million in appropriated funds were withheld from obligation, and since the funds were available only for the year for which appropriated, the authority lapsed and the funds were lost to the program. We, therefore, are opposed to these provisions of H.R. 6396.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Secretary of the Interior.

AMENDMENT IN THE NATURE OF A SUBSTITUTE FOR THE LANGUAGE OF H.R. 6396

To amend the Anadromous Fish Conservation Act relating to the conservation and enhancement of the Nation's anadromous fish resources, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2, item (3) of the Act of October 30, 1965 (79 Stat, 1125; 16 U.S.C. 757b), is amended by striking the semicolon at the end thereof, and inserting the following new language: ", and for control of the sea lamprey;".

SEC. 2. Subsection (a) of Section 4 of the Act of October 30, 1965, as amended by the Act of May 14, 1970 (84 Stat. 214; 16 U.S.C. 757d) is amended by adding at the end thereof the following new sentences: "There is authorized to be appropriated for the 5-year period ending June 30, 1979, an amount not to exceed $10,000,000 per annum to carry out the purposes of this Act. Sums appropriated under this subsection are authorized to remain available until expended."

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 26, 1973.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request for the views of this Department with respect to H.R. 6396, a bill "To amend the Anadromous Fish Conservation Act in order to clarify the duties of the Secretary of the Interior thereunder and to extend the authorization for appropriations to carry out such Act."

H.R. 6396 would extend the Anadromous Fish Conservation Act, P.L. 89–304 as amended, for 4 years, through FY 1978, with an annual authorization of $10 million. It would also amend the Act to require rather than authorize the Secretary to enter into agreements with the States and otherwise implement the provisions of the Act. Finally, it would add a new provision to the Act forbidding the withholding of funds appropriated for the Act.

The Department strongly urges enactment of legislation to extend the Anadromous Fish Conservation Act, and we would favor H.R. 6396 if amended to delete paragraphs (1), (2) and (3)(B) which are intended to make it mandatory for the Secretary to spend all money appropriated for the Act. We would point out that all of our programs are authorized by the Congress and that the importance of individual programs must be evaluated constantly in the light of changing national priorities and available resources. We feel these provisions could prove to be a hindrance to effective overall management of the Department's programs.

Since Reorganization Plan No. 4 of 1970 went into effect, vesting in the Secretary of Commerce functions of the former Bureau of Commercial Fisheries of the Department of the Interior, the Federal Government's activities under this Act have been carried out by both the

Department of the Interior and the Department of Commerce with each Department receiving direct appropriations to finance its programs under the Act.

Pursuant to the provisions of Reorganization Plan No. 4, responsibilities for marine game fish research and responsibilities for commercial fishery resources, both under Interior, were combined and transferred to the National Oceanic and Atmospheric Administration (NOAA) in this Department. The expertise and experience in fisheries thus available within NOAA's National Marine Fisheries Service, supported by other ocean-oriented NOAA activities, provide a unique capability to conserve, develop, and enhance anadromous fish in a cooperative and productive relationship with the States as intended by the Act.

The importance of anadromous fish to the domestic commercial fishery, which is of direct concern to NOAA, is indicated by the value of the 1970 landings of anadromous species which exceeded $104 million. In keeping with its authority and with the demonstrated value of the resources, NOAA continues to be deeply involved in the conservation and enhancement of anadromous fish under P.L. 89–304.

We note that the Department of the Interior recommends amending the bill to include specific authority for the control of sea lamprey and to extend the authority for appropriations to June 30, 1979. This extension would provide a full five-years of appropriations authority as the bill seems to intend. We support these amendments.

Finally, we note for the record in connection with the Act that under Reorganization Plan No. 3 of 1970 authorities of the Department of Health, Education, and Welfare relating to water pollution control were transferred to the Environmental Protection Agency.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our proposed report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ANADROMOUS FISH CONSERVATION ACT, AS AMENDED

79 Stat. 1125, 84 Stat. 214 (16 U.S.C. 757a–f)

AN ACT To authorize the Secretary of the Interior to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the

purpose of conserving, developing, and enhancing within the several States the anadromous fishery resources of the Nation that are subject to depletion from water resources developments and other causes, or with respect to which the United States has made conservation commitments by international agreements, and for the purpose of conserving, developing, and enhancing the fish in the Great Lakes that ascend streams to spawn, the Secretary of the Interior is authorized to enter into cooperative agreements with one or more States, acting jointly or severally, that are concerned with the development, conservation, and enhancement of such fish, and, whenever he deems it appropriate, with other non-Federal interests. Such agreements shall describe (1) the actions to be taken by the Secretary and the cooperating parties, (2) the benefits that are expected to be derived by the States and other non-Federal interests, (3) the estimated cost of these actions, (4) the share of such costs to be borne by the Federal Government and by the States and other non-Federal interests: *Provided*, That, except as provided in subsection (c) of this section, the Federal share, including the operation and maintenance costs of any facilities constructed by the Secretary pursuant to this Act, which he annually determines to be a proper Federal cost, shall not exceed 50 per centum of such costs exclusive of the value of any Federal land involved: *Provided further*, That the non-Federal share may be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money, (5) the term of the agreement, (6) the terms and conditions for disposing of any real or personal property acquired by the Secretary during or at the end of the term of the agreement, and (7) such other terms and conditions as he deems desirable.

(b) The Secretary may also enter into agreements with the States for the operation of any facilities and management and administration of any lands or interests therein acquired or facilities constructed pursuant to this Act.

(c) Whenever two or more States having a common interest in any basin jointly enter into a cooperative agreement with the Secretary under subsection (a) of this section to carry out a research and development program to conserve, develop, and enhance anadromous fishery resources of the Nation, or fish in the Great Lakes that ascend streams to spawn, the Federal share of the program costs shall be increased to a maximum of 60 per centum. Structures, devices, or other facilities, including fish hatcheries, constructed by such States under a cooperative agreement described in this subsection shall be operated and maintained without cost to the Federal Government. For the purpose of this subsection, the term "basin" includes rivers and their tributaries, lakes, and other bodies of water or portions thereof.

SEC. 2. The Secretary, in accordance with any agreements entered into pursuant to section 1(a) of this Act, is authorized (1) to conduct such investigations, engineering and biological surveys, and research as may be desirable to carry out the program; (2) to carry out stream clearance activities; (3) to construct, install, maintain, and operate devices and structures for the improvement of feeding and spawning conditions, for the protection of fishery resources, and for facilitating the free migration of the fish[;], *and for the control of the sea*

lamprey; (4) to construct, operate, and maintain fish hatcheries wherever necessary to accomplish the purposes of this Act; (5) to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of any stream or other body of water for the conservation and enhancement of anadromous fishery resources and the fish in the Great Lakes that ascend streams to spawn: *Provided*, That the reports on such studies and the recommendations of the Secretary shall be transmitted to the States, the Congress, and the Federal water resources construction agencies for their information: *Provided further*, That this Act shall not be construed as authorizing the formulation or construction of water resources projects, except that water resources projects which are determined by the Secretary to be needed solely for the conservation, protection, and enhancement of such fish may be planned and constructed by the Bureau of Reclamation in its currently authorized geographic area of responsibility, or by the Corps of Engineers, or by the Department of Agriculture, or by the States, with funds made available by the Secretary under this Act and subject to the cost-sharing and appropriations provisions of this Act; (6) to acquire lands or interests therein by purchase, lease, donation, or exchange for acquired lands or public lands under his jurisdiction which he finds suitable for disposition: *Provided*, That the lands or interests therein so exchanged shall involve approximately equal values, as determined by the Secretary: *Provided further*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged; (7) to accept donations of funds and to use such funds to acquire or manage lands or interests therein; and (8) to administer such lands or interests therein for the purposes of this Act. Title to lands or interests therein acquired pursuant to this Act shall be in the United States.

SEC. 3. Activities authorized by this Act to be performed on lands administered by other Federal departments or agencies shall be carried out only with the prior approval of such departments or agencies.

SEC. 4. (a) There is authorized to be appropriated for the period ending on June 30, 1970, not to exceed $25,000,000 to carry out the purposes of this Act. There is authorized to be appropriated to carry out this Act, not to exceed $6,000,000 for the fiscal year ending June 30, 1971, not to exceed $7,500,000 for the fiscal year ending June 30, 1972, not to exceed $8,500,000 for the fiscal year ending June 30, 1973, and not to exceed $10,000,000 for [the fiscal year ending June 30, 1974] *each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979.* Sums appropriated under this subsection are authorized to remain available until expended.

(b) Not more than $1,000,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.

SEC. 5. This Act shall not be construed to affect, modify, or apply to the same area as the provisions of the Act of May 11, 1938 (52 Stat. 345), as amended (16 U.S.C. 755–757).

SEC. 6. The Secretary of the Interior shall, on the basis of studies carried out pursuant to this Act and section 5 of the Fish and Wildlife Coordination Act (48 Stat. 402), as amended (16 U.S.C. 665), make recommendations to the Secretary of Health, Education, and Welfare concerning the elimination or reduction of polluting substances detrimental to fish and wildlife in interstate or navigable waters or the tributaries thereof. Such recommendations and any enforcement measures initiated pursuant thereto by the Secretary of Health, Education, and Welfare shall be designed to enhance the quality of such waters, and shall take into consideration all other legitimate uses of such waters.

SEC. 7. This Act may be cited as the "Anadromous Fish Conservation Act".

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